<u>REMARKS</u>

This Amendment is in response to the Office Action dated July 2, 2003. In the Office Action, the Examiner rejected claims 1-32 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,557,042 to He et al. (hereinafter *He*) in view of U.S. Patent No. 6,490,722 to Barton et al. (hereinafter *Barton*). No claims have been amended or cancelled herein. Claims 1-32 remain pending in the application. For the reasons set forth below, the Applicants respectfully request reconsideration and allowance of all pending claims.

<u>CLAIM REJECTIONS - 35 U.S.C. § 103</u>

To establish a *prima facie* case of obviousness, there must first be some suggestion or motivation to modify a reference or to combine references, and second be a reasonable expectation of success. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. Third, the prior art reference (or references when combined) must teach or suggest all the claim limitations. M.P.E.P. § 706.02(j) from *In Re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Where claimed subject matter has been rejected as obvious in view of a combination of prior art references, a proper analysis under § 103 requires, *inter alia*, consideration of two factors: (1) whether the prior art would have suggested to those of ordinary skill in the art that they should make the claimed device; and (2) whether the prior art would also have revealed that in so making, those of ordinary skill would have a reasonable expectation of success. Both the suggestion and the reasonable expectation of success must be founded in the prior art, not in the Applicants' disclosure. *Amgen v. Chugai Pharmaceutical*, 927 F.2d 1200, 18 USPQ2d 1016 (Fed. Cir. 1991), *Fritsch v. Lin*, 21 USPQ2d 1731 (Bd. Pat. App. & Int'f 1991). An invention is non-obvious if the references fail not only to expressly disclose the claimed invention as a whole, but also to suggest to one of ordinary skill in the art modifications needed to meet all the claim

limitations. *Litton Industrial Products, Inc. v. Solid State Systems Corp.*, 755 F.2d 158, 164, 225 USPQ 34, 38 (Fed. Cir. 1985).

The examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references. M.P.E.P. § 70602(j) from *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). Obviousness cannot be established by combining references without also providing evidence of the motivating force which would impel one skilled in the art to <u>do what the patent applicant has done</u>. M.P.E.P. § 2144 from *Ex parte Levengood*, 28 USPQ2d 1300, 1302 (Bd. Pat. App. & Inter. 1993) (emphasis added by M.P.E.P.).

Claims 1 and 28 respectively are method and system claims that are illustrative of the claimed invention. Claim 1 recites:

1. (Amended) A method, comprising:

broadcasting *meta-data* to one or more client systems, *the meta-data including* **descriptions of content** *corresponding to respective* **data files** *from among a plurality of data files* **up for consideration for a future broadcast**;

processing the meta-data at each of the one or more client systems to generate a content-rating interface via which content ratings corresponding to the plurality of data files may be obtained;

obtaining content ratings for respective data files via the content-rating interface;

receiving content ratings for the plurality of data files from the one or more client systems; and

broadcasting a selected portion of the plurality of data files to the one or more client systems in response to the content ratings received from the one or more client systems. (Emphasis added)

With respect to claims 1 and 28 (as argued in paragraph 5 as a method claim featuring limitations corresponding to the system claim of claim 28), the Examiner states:

He et al. teaches the invention substantially as claimed (As in claim 28) including a system comprising: a broadcast server (col. 3, lines 29-47); and one or more client systems coupled to the broadcast server (col. 3, lines 29-47); wherein the broadcast server is coupled to broadcast meta-data to the one or more client systems, the meta-data including descriptions of content corresponding [to] respective data files from among a plurality of data files up for consideration for a future broadcast (col. 8, lines 14-38); wherein the one or more client systems are coupled to transmit to the broadcast server rating of the plurality of data files (col. 9, lines 15-48); wherein the broadcast system is coupled to select a portion of the plurality of data files in response to the ratings received from the one or more client systems (col. 9, lines 49-67 and col. 10, lines 1-39); wherein the broadcast system is further coupled to broadcast the selected portion of the plurality of data files (col. 10, lines 63-67 and col. 11. lines 1-42).

He discloses a system for generating multimedia summaries in response to user feedback. As stated in the first paragraph of the Summary of the Invention,

The system includes a multimedia server computer or other device that can provide multimedia content, as well as **summaries of the multimedia content**, to one or more client computers. Summaries are generated to include **those portion of the multimedia content** that are most interesting to previous users, as identified by feedback from the previous users. Thus, the summary presented to a user includes **the portions** identified as interesting by previous users. (Col. 2, lines 29-26, emphasis added)

Further details of the summaries is provided in the fourth paragraph of the Summary of the invention

According to another aspect of the invention, **the multimedia content is separated into multiple different segments or portions**. The segments may be pre-determined or alternatively may be dynamically defined. Each of these **segments** is given a different **"score"** for each group. These scores are then modified as user feedback is received. User feedback indicating a segment is interesting increases the score of that segment, while user feedback indicating a segment is not interesting decreases the score of that segment. **The highest scoring segments are then provided as the summary of the multimedia content.** (Col. 2, lines 42-53, emphasis added).

First of all, it is clear the *He* doesn't broadcast *metadata including **descriptions of content** corresponding to respective **data files** from among a plurality of data files up for consideration for a future broadcast.* *He* does not broadcast anything –

content in the form a streaming media is delivered from multimedia server 104 to network client computers 108 in response to a request of the content from a client computer on an individual basis. Nor does *He* broadcast or even send metadata including descriptions of content corresponding to respective data files up for consideration for a future broadcast. *He* doesn't employ the concept of broadcasting content. Rather, multimedia content is served by multimedia server 104 to network client computer 108 on an individual basis, that is, in response to a request to receive the content.

Under *He*, A user can request to receive a summary for a specific multimedia content, e.g., a particular multimedia presentation being viewed. Specifically, "Summary button 326 allows the user to request a summary of the multimedia content being rendered on the screens 304-308" (col. 12, lines 38-40). The summary comprises one or more segments of the multimedia content. The summary technique is similar to that employed for a movie trailer. The summary might include one or more segments of the multimedia content (similar to one or more short segments of a movie used in a movie trailer). This is not metadata describing content of the multimedia content, but rather are segments of the content itself.

He doesn't employ the concept of obtaining ratings for respective data files. Rather, *He* obtains ratings for **segments** of **a single multimedia content**. The ratings are then employed to determine which segments are to be included in subsequent summaries sent in response to subsequent user requests to receive those summaries. The summary that is sent to a particular user (in response to a request for the summary) may be based on the currently stored ratings for the segments and/or the group the user is a member of.

With respect to the last subparagraph of claim 1, the term "portion" refers to a selected portion of the plurality of data files. In other words, suppose ten data files are up for consideration for a future broadcast, numbered 1-10. A selected portion might

include data files 2, 7, and 9, or data file 6, or even all of the data files 1-10. In contrast, portions (i.e., segments) of a single multimedia content corresponding to the current summary for the single multimedia content are sent by server computer 104 to a client computer 108 in response to a request for the summary by a user of the client computer.

With further respect to claim 1, neither *He* or *Barton* teach or suggest processing the meta-data at each of the one or more client systems to generate *a content-rating interface via which content ratings corresponding to the plurality of data files may be obtained*. *He* obtains ratings of the multimedia segments based on explicit or implicit feedback, wherein neither technique employs the generation or use of a content-ratings interface or table (as recited in claim 28). The Examiner acknowledges that *He* does not teach employing one or more client systems to rate content via a content rating table (i.e., content-rating interface). However, the Examiner asserts that "Barton teaches a system wherein one or more client systems are coupled to rate in response to a content rating table one or more of a plurality of data files described by the metadata, the content rating table generated using the meta-data and containing ratings derived from observation of data files previously accessed via that client (col. 13, lines 17)." This is simply not supported by the cited text, which reads,

> Referring again to FIG. 1, in a preferred embodiment of the invention the following steps constitute "collection" of television viewing objects from each client database:

> 1. As the viewer navigates the television channels available to him, the client system records interesting information, such as channel tuned to, time of tuning, duration of stay, VCR-like actions (e.g., pause, rewind), and other interesting information. This data is stored in a local television viewing object.

> Additionally, the viewer may indicate interest in offers or promotions that are made available, or he may indicate a desire to purchase an item. This information is also recorded into a local television viewing object.

> Additionally, operation of the client device may result in important data that should be recorded into a television viewing object. For example, errors may occur when reading from the hard disk drive in the client, or

the internal temperature of the device may exceed operational parameters. Other similar types of information might be failure to properly download an object, running out of space for various disk-based operations, or rapid power cycling.

2. At a certain time, which may be immediate or on a periodic basis, the client system contacts the central site via a direct connection 104 (normally via phone and/or an Internet connection). The client device sends a byte sequence identifying itself which is encrypted with its secret key. The server fetches the matching television viewing object for the client device from the database, and uses the key stored there to decrypt the byte sequence. At the same time, the server sends a byte sequence to the client, encrypted in its secret key, giving the client a new one-time encryption key for the session.

There is no user interface that is generated via which content ratings are obtained. Providing a means for a viewer to indicate interest in offers or promotion that are made available does not constitute or suggest generating a content ratings interface.

It is clear that *He* and *Barton*, either alone or in combination, do not teach or suggest the recited elements and limitations of either of independent claims 1 and 28. Accordingly, the rejection of claims 1 and 28 should be withdrawn. In addition, each of claims 1-13, which depend from claim 1, and 29-32, which depend from claim 28, are in condition for allowance for at least the same reasons as their base claims.

Applicant respectfully asserts that each of independent claims 7, 10, 14, 18, 21, 24, 26 and 28 are patentable over the cited art for similar reasons to those argued above with respect to claims 1 and 28. Claim 14 recites an apparatus that executes instructions to perform the server-side operations of system claim 28. Claims 7 and 10 are method claims that recite client-side operations substantially corresponding to similar operations performed by the clients in claim 28. Claim 10 further includes the element of "selectively receiving, based on the content rating table, a portion of the second plurality of data files broadcast by the server system." There is no teaching or suggestion in either the *He* or *Barton* references concerning selectively receiving content based on a content rating table.

Independent claim 18 and 21 respectively recited apparatus' for performing the methods of claims 7 and 10. Claim 24 is a Beauregard claim corresponding to software for performing the server-side operations of the system of claim 28. Claim 26 is a Beauregard claim corresponding to software for performing the method of claim 31, which adds the further operation of "storing based on the content rating table a portion of the second plurality of data files broadcast by the server system" to the method of claim 7.

Conclusion

Overall, none of the references singly or in any motivated combination disclose, teach, or suggest what is recited in the independent claims. Thus, given the above amendments and accompanying remarks, independent claims 1, 7, 10, 14, 18, 21, 24, 26 and 28 are now in condition for allowance. The dependent claims that depend directly or indirectly on these independent claims are likewise allowable based on at least the same reasons and based on the recitations contained in each dependent claim.

If the undersigned attorney has overlooked a teaching in any of the cited references that is relevant to the allowability of the claims, the Examiner is requested to specifically point out where such teaching may be found. Further, if there are any informalities or questions that can be addressed via telephone, the Examiner is encouraged to contact the undersigned attorney at (206) 292-8600.

Charge Deposit Account

Please charge our Deposit Account No. 02-2666 for any additional fee(s) that may be due in this matter, and please credit the same deposit account for any overpayment.

Respectfully submitted,

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